

# EXHIBIT

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**DECLARATION OF TRACY MARCYNZSYN**

**PURSUANT TO 28 U.S.C. § 1746**

I, Tracy Marcynzsyn, hereby state that I have personal knowledge of the facts set forth below. If called as a witness, I could and would testify as follows:

1. I am a U.S. citizen over the age of 18 residing in Newbury Park, California. I have personal knowledge of the facts stated herein.
2. I have a Dell computer that runs a Windows operating system.
3. In June 2008, I was using my computer on-line when I received a pop-up, which looked like it was from Microsoft, advertising anti-virus software called WinAntivirus PRO and offering to scan my computer.
4. The pop-up program appeared to conduct a scan of my computer and said that I had forty dangerous trojan viruses, etc., on my computer. I was instructed that I had to purchase the program in order for it to conduct a full scan. I was also informed that the program could remove the viruses and protect my computer from threats if I purchased the program for \$49.00.
5. Because my McAfee anti-virus software was outdated, I decided to purchase the WinAntivirus PRO program offered through the pop-up.
6. I paid for the program using my credit card and downloaded it to my computer, but nothing happened after I downloaded the program.
7. I contacted customer support via email and received an email back from support@mainbillingcenter.com instructing me to reinstall the program. I

followed the instructions, but the program and the scan still did not work.

Instead, when I attempted to scan my computer the program scan acted in a circular fashion always taking me back to the warning that my computer was being threatened by viruses.

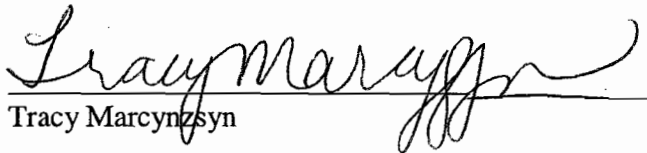
8. After I paid for and downloaded the program I became concerned that WinAntivirus PRO was the product of a fraudulent company. Upon closer inspection, I realized that the logo was not really from Microsoft, the dollar sign was on the right side of the monetary amount rather than the left, and I was charged a foreign transaction fee, leading me to believe WinAntivirus PRO was a foreign company posing as Microsoft.
9. Within a short period of time, my computer became un-usable because pop-ups would occur every few seconds. The pop-ups instructed me to scan my computer, but the scan never worked, and the frequent pop-ups prevented me from being able to use my computer to do any work.
10. I attempted to call customer support at 800-467-1077, but I always received a recorded message and was never able to speak to a live person.
11. I disputed the WinAntivirus PRO charges with my credit card company and was credited back the amount I spent.
12. In order to stop the pop-ups from occurring I obtained and spent money on the following programs to remove WinAntivirus PRO from my computer: McAfee

Antivirus Software at approximately \$50; Spysweeper at approximately \$20; and Malwarebytes at approximately \$30.

13. I also spent in excess of ten hours that represented time I was not able to work in order to resolve all of the problems created by WinAntivirus PRO, including time spent to dispute the credit card charges and to determine how to restore my computer.

I state under penalty of perjury that the foregoing statement is true and correct.

Executed on Oct. 24, 2008, at Newbury Park, California.

  
Tracy Marcynzsyn